

### **REMARKS**

The present reply is in response to the Office Action dated May 23, 2008, where the Examiner has maintained the rejection of claims 1 – 13 and 21 – 28. By this amendment, claims 1-22 have been cancelled without prejudice to pursue in a related application. Claim 24 has been amended. Accordingly, claims 23-28 remain pending in the present application with claims 23 and 24 being the independent claims. Reconsideration and allowance of pending claims 23-28 in view of the present amendment and remarks are respectfully requested.

#### **A. Rejection of Independent Claims 23 and 24 Under 35 USC §103**

In the Office Action, independent claims 23 and 24 have been rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Publication No. 2004/0005889 ("Shanahan") in view of U.S. Publication No. 2002/1023336 ("Kamada") and further in view of U.S. Publication No. 2002/0123342 ("Lehaff") and further in view of U.S. Publication No. 2004/0121818 ("Paakkonen"). The Office Action relies primarily on Shanahan as teaching the elements of the claims and states that the combination of Shanahan with Kamada, Lehaff and Paakkonen would have been obvious to a person of ordinary skill in the art.

As set forth in MPEP § 2143, in *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, 127 S. Ct. 1727, 82 USPQ2d 1385, 1395-97 (2007) the Supreme Court identified a number of rationales to support a conclusion of obviousness which are consistent with the proper "functional approach" to the determination of obviousness as laid down in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The KSR Court noted that the analysis supporting a rejection under 35 U.S.C. 103 ***should be made explicit***.

In the office action, Shanahan is cited as disclosing a wireless toolkit server that is communicatively coupled with a first network and a second network. Paragraphs 23 and 34 are cited in support of this assertion. This interpretation of Shanahan is incorrect. The cited paragraphs merely disclose alternative types of communication links that can be employed under Shanahan. While these alternative types of

communication links include several types of network interface links and wireless communication links, nowhere does Shanahan disclose that the toolkit server is communicatively coupled with a wireless device via a first network and communicatively coupled with a network enabled device via a second network as required by claim 23 and amended claim 24. For example, the figures associated with the cited paragraphs do not show a toolkit sever coupled with separate devices via two separate networks.

To the contrary, Shanahan discloses a single device programmer (its analog to the wireless toolkit server) that is connected via interface links to a programmable device (its analog to the wireless device) and the source content (its analog to the data storage area). Shanahan discloses that the content can come from a network (e.g., the Internet) but nowhere does Shanahan disclose two separate devices accessing the same portion of the wireless toolkit server data storage area that is reserved for the wireless communication device as required by claim 23 and amended claim 24.

The office action further asserts that Lehaff teaches a server communicatively coupled to first and second networks where the first network is a wireless network and the second network is different from the wireless network and is a public network. This citation does not provide **explicit analysis** as required under KSR. While Lehaff does include a conference server device that is coupled to a plurality of networks, it does not disclose providing two separate devices with access to the same portion of the wireless toolkit server data storage area that is reserved for the wireless communication device.

Accordingly, none of the references alone or in combination disclose all of the elements of independent claims 23 or 24. More specifically, the references do not teach a wireless toolkit server that is communicatively coupled with a first network and a second network and the references do not disclose two separate devices accessing the same portion of a data storage area on the wireless toolkit server that is reserved for the wireless communication device. Applicant respectfully requests withdrawal of the rejection and a notice of allowance including independent claims 23 and 24 and claims 25-28 that depend from claim 24.

**B. Conclusion**

For all the foregoing reasons, allowance of claims 23-28 pending in the present application is respectfully requested. If necessary, applicant requests, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a). The Director is authorized to charge any additional fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 50-3001 of Kyocera Wireless Corp.

Respectfully Submitted,

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